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Comes now the affiant, Clark R Mankin, under penalty of perjury, and deposes  
and says that:

I deposited into the United States mail this date, April 29, 1998, a true copy of  
"Comments in Opposition" to RM- 9259, "Compliance with applicable voluntary band  
plans in the amateur radio service."

This copy was sent regular First Class mail. (To ARRL)

Clark R Mankin, April 29, 1998

Clark R. Mankin, KA7RRB

120 NE State AV #1442

Olympia WA 98501-1131

(360) 402-3622

(800) 641-5772

ka7rrb@sprintmail.com

http://www.ka7rrb.org

This Document Prepared By  
Clark R Mankin, Pro Se  
120 NE State AV #1442  
Olympia WA 98501-1131  
(360) 402-3622  
(800) 641-5772 (pager)

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6 **Before The**

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8 **FEDERAL COMMUNICATIONS COMMISSION**

9 **Washington, DC 20554**

10  
11 **In The Matter Of )**

12  
13 **Compliance With Applicable )**

14 **Voluntary Band Plans In The ) RM-9259**

15 **Amateur Radio Service )**

16  
17 **STATEMENT IN OPPOSITION**

18  
19 **Clark R Mankin, KA7RRB**

20 **Founding President, Independent Radio Alliance**

21 **Chairman of the Board of Directors,**

22 **Northwest Packet, Mixed Modes and Split Frequency Repeater Assn.**

23 **Chairman, Technical Committee, NWPMS Repeater Assn.**

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1) Voluntary band plans which are imposed under force of law are not “voluntary,” are they? Since the first amateur license was issued in 1912, our mutual respect for one another has made it possible to have a very simple and straightforward band plan. The band plan of 1912 was “listen first, and if the frequency is not in use, you may use it on a first come, first served basis.” It is implicitly understood that no amateur has any claim to the use of any frequency or group of frequencies for any particular purpose or any particular period of time. Our shared access to the spectrum is predicated upon gentlemanly sharing, courtesy, and mutual respect and understanding for the multitude of uses for which amateur radio spectrum is put to use. It is within the longer term context of our shared understanding and cooperation that the present pleading put forward by ARRL must be viewed with suspicion and concern. Amateur radio operators are capable of resolving band sharing issues as they arise. The history of amateur radio very clearly demonstrates that no external forces are required to bring about substantial gentlemanly agreement and mutual cooperation.

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1 Although there will assuredly be rogue individuals whose primary enjoyment of  
2 radio consists in making fools of themselves, the larger issue is whether the vast  
3 majority of amateur operators whose deportment and conduct is exemplary ought  
4 to be penalized at the behest of a group which, on a good day, represents a mere  
5 14.3% of licensed operators?  
6

- 7 2) American Radio Relay League proposes to assume a dictatorial posture with  
8 respect to spectrum planning, yet they have not demonstrated through  
9 membership participation that they do, in fact, represent the majority interest of  
10 amateurs. Any discussion of proposals put forward by ARRL must include an  
11 examination of who they are and what they consist of. It is very noteworthy to  
12 make the observation that ARRL has been in business over fifty years, yet they  
13 are not able to show anywhere near fifty percent of licensees as members. This  
14 begs the question: Why? The answer is quite simply that ARRL does not  
15 represent the majority view. Very accurate surveys of ARRL so-called "members"  
16 suggest that substantially in excess of 90% of these alleged "members" are in  
17 fact magazine subscribers whose only motivation for "membership" is home  
18 delivery of the magazine. Almost to a man in a recent on line survey (98% to be  
19 precise) ARRL members who responded did so by saying that they do not  
20 support the regulatory or legislative agenda of ARRL and that if the magazine  
21 were available apart from "membership" that they would keep the magazine  
22 subscription, but drop the designation as "member."  
23  
24  
25

1 It is in the context of these facts that the present ARRL power play is most  
2 disturbing. The mandate of Executive Orders and indeed the legislative mandate  
3 of the Congress specifically and expressly directs the FCC to assure the greatest  
4 possible diversity where use of public spectrum is concerned. It would appear to  
5 the casual observer that FCC has entered into an unholy matrimony with ARRL.  
6 Scarcely a calendar quarter goes by in which the FCC does not delegate more  
7 and more regulatory authority to this group which represents a mere 14.3% of  
8 licensees. That factual state of affairs begs the question: "How does FCC justify  
9 successive grants of regulatory authority to a group which by demonstrated  
10 membership represents a tiny minority, and do so in the light of Executive Orders  
11 and legislative mandates toward diversity of opinion and diversity of access?"  
12

- 13 3) Spectrum management in the amateur service is a difficult proposition at best.  
14 As we all know from license upgrade statistics, there is zero interest in continuing  
15 the Morse code requirement. FCC statements to the effect that the agency is  
16 "waiting for consensus in the amateur community" are disingenuous at best. The  
17 majority of licensees are non code licensees and these licensees are not  
18 upgrading. If a majority of amateur operators are non code operators and if that  
19 majority declines to upgrade, we may logically infer that there is indeed  
20 "consensus of opinion" in the amateur community concerning morse code. The  
21 consensus is that Morse is a dead horse and we should give it a decent burial  
22 and move forward into the twenty-first century with digital modes more in keeping  
23 with current technological developments.  
24  
25

1 This view is the official position of NWPMS, W5YI, and TAPR. Only ARRL, the  
2 minority voice whining in the background, wants to keep the code requirement  
3 and the code spectrum set asides. Maintaining roughly 35% of amateur spectrum  
4 for a dead mode of communication is nonsense at best, and sheer arrogance at  
5 worst. The substantial motivation behind this current ARRL proposal is their  
6 desire to cement the CW spectrum set asides and lock them up. ARRL fully  
7 understands that Morse is dead, however they are determined to fight to keep it  
8 just as vigorously as they fought to prevent the no code license in the last  
9 decade. It is this mentality; it is this arrogant attitude of "we don't care what the  
10 majority wants" that gives us pause whenever ARRL wants to be appointed as a  
11 police agency or wants to be given a grant of authority to "designate repeater  
12 coordinators" or wants to be given a grant of authority to "engage in binding  
13 arbitration." ARRL petitions the FCC declaring that they come speaking as "the  
14 voice of amateur radio." In point of fact, ARRL is merely the voice of a small  
15 group of men determined to hold off the future of communications as long as they  
16 possibly can. Men whose primary concern and motivation is to promote and  
17 maintain their individual positions of power.

- 18  
19 4) The official position of the Independent Radio Alliance and NWPMS Repeater  
20 Assn., is that amateur operators should have freedom to operate when, where,  
21 and how they please with the proviso that they "listen first, and if the frequency is  
22 not in use you may use it on a first come, first served basis."

1 There are endless and, frankly pointless arguments which can be advanced on a  
2 technical level concerning incompatibility of various modes of operating, but the  
3 bottom line is that nobody is in a position to take any one mode of operation and  
4 pronounce it as the "mode of choice." Who am I to unilaterally declare that FM is  
5 inherently evil? Who are you to declare that SSB ought to be given any more  
6 consideration than SS? Each mode has its proponents and its following. I am on  
7 the radio 365 days a year. I hear vast amounts of "dead air." In particular I hear  
8 vast amounts of "dead air" in the CW spectrum set aside. I hear vast amounts of  
9 "dead air" in the "weak signal" set aside. With three quarters of a million  
10 licensees, we simply cannot afford vast amounts of "dead air." It is to everyone's  
11 advantage to utilize our spectrum to the fullest extent possible and we simply  
12 cannot do this with preposterous frequency allocations for modes of operation  
13 which frankly have no following. The ARRL wants to maintain vast amounts of  
14 CW spectrum, knowing as I know that this is "dead air" most of the time. Their  
15 motive for keeping the CW allocation is rooted in their desire for keeping the CW  
16 license requirement, which is in itself rooted in a desire to prevent full  
17 participation by the majority of licensees who simply are not interested in devoting  
18 the time and energy required to assimilate a dead communications technology.

- 19  
20 5) It is our official position that ARRL is already doing too much. In the interests of  
21 diversity expressed by Executive Order and legislative mandate, we believe that  
22 neither ARRL, nor any group they sponsor can rightly be given any further  
23 jurisdiction. The Independent Radio Alliance is poised to file a proposed rule  
24 making docket which would require that VEC groups either resign their VEC  
25 status or refrain from other kinds of regulatory activity on the amateur bands.

1 We believe there is an inherent conflict of interest when an organization is deeply  
2 involved in the licensing process and also wishes to be appointed the cop on the  
3 beat and then demands authority to "certify" frequency coordinators and then  
4 demands authority to engage in binding arbitration and then demands to be  
5 appointed as the sole authority for band planning - under penalty of law.

## 6 7 SUMMARY

8  
9 The current proposal put forward by the American Radio Relay League, Inc., is  
10 not in the public interest, necessity, or convenience. We at Independent Radio Alliance  
11 and the NWPMS Repeater Assn., are deeply concerned that too much power is  
12 concentrated in too few hands. ARRL can whine and squeal all they like, but the facts  
13 speak for themselves. After over 50 years in business they simply cannot show 50% of  
14 licensees as members.

15  
16 Our position is that unless and until ARRL can demonstrate substantially greater  
17 genuine membership participation (measured apart from magazine subscriptions), the  
18 FCC should refrain from appointing them as the guardians of the ham bands.

19  
20 Up until now ARRL has been "the only show in town." That is no longer the case.  
21 We at Independent Radio Alliance speak for the vast unrepresented no code licensee  
22 block. ARRL has tried to recruit them and their efforts have failed. Why would a no  
23 code licensee join a group determined to prevent them from enjoying their license by  
24 maintaining a code requirement?



1 As in all other things, the old must give way to the new. The Ancient Radio  
2 Redundancy League has now outlived its usefulness. Their posturing to maintain an  
3 antiquated status quo clearly demonstrates the need for fresh views and new  
4 leadership. It is well past time for FCC to enforce its mandate toward diversity by  
5 preventing any further transfer of power to the ARRL.

6  
7 The present pleading before the FCC is not about spectrum management. It is  
8 about a last gasp effort to save Morse code, and it is about power hungry men who  
9 represent virtually nobody's interest but their own. The "membership" figures speak  
10 volumes concerning whose interest is represented in this pleading.

11  
12 **Wherefore**, petitioner prays the Commission to deny RM - 9259 on the ground  
13 that amateurs should be permitted to more fully utilize their spectrum by making use of  
14 "dead air" after first listening to insure the frequency is not in use. Any further delegation  
15 of authority to a minority interest group such as ARRL is not in the public interest. FCC  
16 has a statutory mandate to assure greater diversity of opinion and greater participation  
17 in the self regulation of amateur radio. ARRL is not "the voice of amateur radio," and  
18 ARRL is not "the only show in town." The 85% of us who decline to join them year after  
19 year after year also deserve to be heard by this Commission.

20  
21 Clark R. Mankin, 4/25/98

22 Clark R Mankin, KA7RRB

23 Founding President, Independent Radio Alliance

24 Chairman of the Board of Directors, NWPMS Repeater Assn.

25 Chairman, Technical Committee, NWPMS

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